

## ***Rebooting the Internet: The Case for Net Neutrality***

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In January of 2014, a lawsuit from Verizon caused a court to strike down the FCC's 2010 Open Internet Order on the grounds that it was established under "questionable legal framework". The Open Internet Order was a regulation placed on Internet Service Providers (ISPs) that enforced, to a certain extent, the concept of "net neutrality" ("What You Need..."). Net neutrality is the idea that "ISPs shouldn't offer preferential treatment to some websites over others or charge some companies arbitrary fees to reach users" (Ammori). Essentially, net neutrality is the argument that all data should be treated equally online, regardless of its source; that a company should not be able, or be forced to pay an ISP extra to have their data reach customers quicker than that of their competitors.

According to the inventor of the world wide web, Sir Tim Berners-Lee, the internet and all the progress that has been made on it are "predicated on a neutral network" (Scott). However, many large ISPs such as Comcast, Time Warner, and AT&T, want to completely do away with net neutrality, and are currently lobbying the FCC to do so, on the grounds that it would allow them to provide higher quality services to higher paying customers (Epstein). The argument for net neutrality is both practical and ideological. Net neutrality promotes competition and innovation, treats the internet as a utility rather than a product, and preserves the freedom of people to connect to one another.

Imagine a world where Facebook never overtook Myspace as the dominant social media platform in the United States. Facebook was invented, but ultimately failed due to the fact that no users wanted to use a website that was substantially slower than a larger, more established site. Myspace saw Facebook as a threat to their business, and payed major ISPs more than Facebook could afford to reach their customers faster. In this scenario, users were coerced into using a service that was substantially worse, simply because it was owned by a company with more money. In a world without net neutrality, this is a reality.

In this way, net neutrality promotes fair competition between companies. Under net neutrality, individuals and small businesses have the same potential to reach customers as massive corporations. This has lead to a history of small businesses overthrowing established services and replacing them with better services; because they can reach the same audience, the better service almost always wins out. There is a principle in computer programming called Linus' Law, named for scientist Linus Torvalds, who pioneered the idea of open-source technology, or software that any programmer can edit. Linus' Law states, "given enough eyes, all bugs are shallow" (Merrill). What is meant by this is that when enough people can contribute to something, the issues with that thing are more easily corrected. The same logic can easily be applied to the internet. When all voices and services on the internet are on equal ground,

competition will cause each service to either improve itself or be replaced by a better service. The more people can contribute new and improved services to the internet, the better life gets for all users. It makes the internet into an open platform for innovation and new ideas.

Some argue that the strength of the market will continue to raise better services over worse ones even without net neutrality because no customer wants to use a bad service (Epstein). This argument is inherently flawed in that it ignores the fact that without net neutrality, a wealthy company would be able to pay to give their product the advantage of speed, thus drastically shrinking the audience of a smaller company. Allowing for large corporations to pay to stay ahead of their competition would lead to stagnation in innovation and progress as well as the monopolization of certain markets online (for example, YouTube becoming irreplaceable as the main video sharing service online) that would ultimately deliver weaker products to customers and destroy the potential of innovative startups.

Furthermore, net neutrality supports a competitive economy because it allows for online companies to compete with offline companies. In early 2014, Comcast customers found that their access to the online movie streaming service Netflix was dramatically slower than usual. This slow down was the result of a debate between Netflix and Comcast in which Comcast was trying to force Netflix to pay more to reach customers. After Netflix refused the deal, Comcast customers' access to the site was repeatedly slowed down to a point of near uselessness. Finally, Netflix came to an agreement with Comcast and access was immediately sped back up (Wyatt, Cohen).

While Comcast's extortion tactics are unethical to begin with, the larger issue lies in the fact that Comcast and Netflix directly compete with each other. Comcast, being a cable TV company as well as an ISP, very much serves to profit from poor service from online entertainment companies. Essentially, net neutrality would prevent a company like Comcast from forcing customers to use their service over their competitors' (Solomon). The free market economy only effectively works through fair competition. For one company to be able to control the means by which their competition is distributed would directly undermine the idea of fair competition.

One of the primary arguments raised against net neutrality is that ISPs are providing the internet as a service and companies are allowed to do as they please with their services (Epstein), and technically they are correct. As of the writing of this paper, the internet is not legally classified as a common carrier utility. However, in light of the debate surrounding net neutrality, there is a push to reclassify the internet. Legally speaking, the primary difference between a service and a utility is that a company is allowed to change their services whereas a company can merely provide a utility. One of the primary arguments behind this push for reclassification is the fact that the internet literally is, technologically speaking, nothing but "advanced telecommunications": communication passed through a series of interconnected hubs, and telecommunications are a common carrier utility (Brodin). In fact, the internet was a common carrier originally, when dial-up service allowed it to be classified as what it was, telecommunications. This classification enforced net neutrality and thus allowed the internet to

grow into what it is today. However, when cable companies got involved with internet service, the classification of the internet was changed to an “information service” (Anderson). Although phone lines are rarely used for internet access today, the internet still matches the definition of telecommunications.

If one examines the way that telecommunications companies operate today, they see neutrality in place. Telecommunications companies merely provide access to their phone lines, they do not restrict what their customers do with those phone lines, they do not decide what calls get connected and which ones are dropped. Furthermore, it would be illegal for a telecommunications company such as AT&T to force cell phone manufacturers and customers to pay more to have reliable service on AT&T’s network. Just as reclassifying internet access would make it illegal for ISPs like Comcast to drastically slow access to Netflix until the company paid an increased rate for their internet: which, again, already occurred in early 2014. Low-tech telecommunications companies have no right to control what the user does with their phones, and as such, high-tech telecommunications companies should not have the right to control what their users do with their devices.

Many ISPs and anti-net neutrality campaigners argue that it would not make sense for an ISP to intentionally provide a bad service to customers by slowing access to certain sites, as that would not be a smart business move (Epstein). Although this argument certainly seems logical at first, further examination presents one major flaw: ISPs do not operate like typical businesses have historically operated. With Comcast’s slowing of Netflix, they demonstrated that they are already willing to provide their customers with worse service. If the argument of the ISPs is to be believed, customers would have taken their business from Comcast, but they did not. This is because ISPs force customer loyalty by staying out of each other’s markets.

In spring of 2014, Comcast and Time Warner Cable announced their intention to merge, a move that would allow for a single company to gain control of approximately forty percent of internet users (Carr). Defending against claims of monopoly, Comcast published a statement on their website pointing out that they do not directly compete with Time Warner, as Comcast and Time Warner do not offer service to the same geographic locations (Comcast). This practice of staying away from one another is commonplace among ISPs, and has lead to an estimated sixty-four percent of Americans having access to only one provider (“A Cable Merger too Far”). It is exceptionally difficult, if not impossible, for a customer to switch services when relatively small markets have been monopolized without technically monopolizing the national market.

I also want to take this time to address the other major counterargument being made against net neutrality. Many ISPs argue that net neutrality promotes piracy online. In fact, an estimated twenty-four percent of all traffic online is illegal file transfer of music, movies, and software, however it should be noted that the above statistic came from a study commissioned by Comcast subsidiary, NBC Universal (“Technical Report...” 2) which serves to profit from the death of net neutrality. ISPs argue that without net neutrality, they would be able to slow down the signal for BitTorrent traffic (the primary means by which individuals illegally download

copyrighted works) and thus reward customers for choosing legal means of distribution (Seigelbaum).

While it is indeed true that the end of net neutrality would put a damper on online piracy, ISPs have never been considered ethical watchdogs and frankly, have no place governing online ethics or enforcing the law. Firstly, ethicist Irina Raicu points out that ISPs have demonstrated their own lack of ethics in their business practices, making their attempts to direct users on how to ethically behave on the internet essentially null (qtd. in Seigelbaum). More important, however, is the fact that ISPs are simply providing access to the network. The job of an ISP is to be a “gateway, not a gate keeper” (Ammori). Simply put, an ISP’s job is to connect a user to the internet, not to ask a user what part of the internet they are going to and adjust their path accordingly. Customers pay for internet access regardless of what they intend to use it for, so by all logic, an internet service provider would not care what their customers did online. However, many ISPs are owned by large entertainment companies or cable companies, and in this lies the true reason as to why they vehemently want to limit piracy: it costs their parent companies money. Instead of examining the motivations of pirates and attempting to create systems that respond to their concerns (for example, making it possible to play British DVDs in the US) it is much more profitable for a large media company to force users into using their own systems.

I want to conclude by presenting the philosophical argument for net neutrality. The internet has, since its humble beginnings, been a tool for free and open connection between people. With many dictatorships either restricting or cutting off internet access for their people, the United Nations declared internet access a human right (Kravets). The late internet activist Aaron Swartz said of a controversial bill that would censor large portions of the internet to protect copyright, “To us, this is not about copyright, this is about protecting the freedom to connect”. The same can be said for protecting net neutrality. To me, and many other citizens of the internet, actions to destroy net neutrality are actions to destroy the essential freedom of people to connect.

The internet provides open communication to all people, where the voices of politicians and activists, producers and consumers, the rich and the poor, are all equal. It has created what is almost certainly the truest expression of freedom of speech ever seen, and it has only been able to do so because of the equality ensured by net neutrality. A fair and open internet provides economic growth to the developing world, helps to bring and spread democracy, and ushers in new opportunities for education (A Human Right). Support of net neutrality is support of ethical business practices, but more important, support of net neutrality is support of a better world, where all voices, big and small, can advocate for themselves.

In conclusion, the principle of net neutrality must be preserved as it maintains the users freedom to connect, correctly considers the internet to be a utility rather than a product, and cultivates a competitive environment. By the end of 2014, we will officially know the FCC’s ruling on net neutrality. When the Commission opened up a page on their website for public comments about net neutrality, they were swamped with an estimated 3.7 million comments, the vast majority of which were in support of keeping the internet neutral (“What you need...”).

While public opinion seems to favor net neutrality, with the money that ISPs possess and are pushing into the FCC (the commissioner of which is a former cable company and ISP lobbyist) it is unclear what the resolution will be.

With the future of the way that we, the citizens of the internet, communicate at stake, it is more important than ever to press for net neutrality in the coming months, as it may be our last chance to advocate on and for the internet. Attacks on net neutrality are attacks on the fundamental freedoms that the internet was built upon. The time to advocate for net neutrality is now, as it would be incredibly difficult to speak out in a world where our voices could be slowed into silence.

## Works Cited

- Ammori, Marvin. "The Case For Net Neutrality." *Foreign Affairs* 93.4 (2014): 62-73. Academic Search Complete. Web. 28 Oct. 2014.
- Anderson, Nate. "Making ISPs Common Carriers: Just a Simple "Error Correction"" *Ars Technica*. *Ars Technica*, 19 Apr. 2010. Web. 18 Nov. 2014.
- Brodkin, Jon. "Make ISPs into "Common Carriers," Says Former FCC Commissioner." *Ars Technica*. *Ars Technica*, 24 Jan. 2014. Web. 18 Nov. 2014.
- "A Cable Merger Too Far." *The New York Times*. The New York Times Editorial Board, 26 May 2014. Web. 18 Nov. 2014.
- Carr, David. "Questions for Comcast as It Looks to Grow." *The New York Times*. The New York Times, 06 Apr. 2014. Web. 18 Nov. 2014.
- Comcast. "Time Warner Cable to Merge with Comcast Corporation to Create a World-Class Technology and Media Company." Comcast Corporate. Comcast Corporation, 13 Feb. 2014. Web. 18 Nov. 2014.
- Epstein, Alex. "Net Neutrality vs. Internet Freedom - The Ayn Rand Institute." *Net Neutrality vs. Internet Freedom*. The Ayn Rand Institute, 16 Aug. 2006. Web. 18 Nov. 2014.
- "A Human Right: Everyone Connected." *A Human Right*. A Human Right, 2014. Web. 18 Nov. 2014.
- "Introduction." *Introduction*. Technical Report: An Estimate of Infringing Use of the Internet. N.p.: NetNames, 2011. 1-2. Print.
- Kravets, David. "U.N. Report Declares Internet Access a Human Right | WIRED." *Wired.com*. Conde Nast Digital, 01 June 2011. Web. 18 Nov. 2014.
- Merrill, Scott. "With Many Eyeballs, All Bugs Are Shallow." *TechCrunch*. TechCrunch, 23 Feb. 2012. Web. 18 Nov. 2014.
- Scott, Mark. "Tim Berners-Lee, Web Creator, Defends Net Neutrality." *The New York Times*, 08 Oct. 2014. Web. 18 Nov. 2014.
- Siegelbaum, Debbie. "Could New Net Neutrality Rules Fuel Piracy?" *BBC News - US and Canada*. The BBC, 28 Apr. 2014. Web. 18 Nov. 2014.
- Solomon, Brian. "Why Netflix Stands Alone Against The Comcast-Time Warner Merger." *Forbes*. *Forbes Magazine*, 22 Apr. 2014. Web. 18 Nov. 2014.

Swartz, Aaron. "How We Stopped SOPA." F2C: Freedom to Connect 2012. Washington DC. 21 May 2012. Speech. 18 Nov. 2014.

"What You Need to Know Now." Save the Internet. Free Press Foundation, 2014. Web. 18 Nov. 2014.

Wyatt, Edward, and Noam Cohen. "Comcast and Netflix Reach Deal on Service." The New York Times. The New York Times, 23 Feb. 2014. Web. 18 Nov. 2014.

## ***About***

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